

ORIGINAL

## CIVIL COVER SHEET

JS 44 (Rev. 12/07) (CAND Rev 1/10)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO OF THE FORM.)

## I. (a) PLAINTIFFS

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

## DEFENDANTS

MAITA CHEVROLET GEO.

(b) County of Residence of First Listed Plaintiff  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
350 The Embarcadero, Suite 500  
San Francisco, CA 94105  
(415) 625-5651

County of Residence of First Listed Defendant Sacramento  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

E-filing

ADR

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☐ 3 Federal Question (U.S. Government Not a Party)  
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                            |                            |   |                            |                            |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
|   | PTF                        | DEF                        |   | PTF                        | DEF                        |
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<b>PROPERTY RIGHTS</b>	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 650 Airline Regs.	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 660 Occupational Safety/Health	<b>SOCIAL SECURITY</b>	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	<b>LABOR</b>	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 190 Other Contract	<b>PERSONAL PROPERTY</b>	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 890 Other Statutory Actions
<b>REAL PROPERTY</b>	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 740 Railway Labor Act	<b>FEDERAL TAX SUITS</b>	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 220 Foreclosure	<b>CIVIL RIGHTS</b>	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 441 Voting	<b>IMMIGRATION</b>		<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 462 Naturalization Application		<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 463 Habeas Corpus - Alien Detainee		<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 465 Other Immigration Actions		<input type="checkbox"/> 950 Constitutionality of State Statutes
	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment			
	<input type="checkbox"/> 446 Amer. w/Disabilities - Other			
	<input type="checkbox"/> 440 Other Civil Rights			
	<b>PRISONER PETITIONS</b>			
	<input type="checkbox"/> 510 Motions to Vacate Sentence			
	<b>Habeas Corpus:</b>			
	<input type="checkbox"/> 530 General			
	<input type="checkbox"/> 535 Death Penalty			
	<input type="checkbox"/> 540 Mandamus & Other			
	<input type="checkbox"/> 550 Civil Rights			
	<input type="checkbox"/> 555 Prison Condition			

## V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from another district (specify)  
☐ 6 Multidistrict Litigation  
☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 U.S.C §2000e-2(a)(1) Title VII, Civil Rights Act of 1964

Brief description of cause:

Unlawful employment practices on the basis of religious discrimination and failure to accommodate.

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23  
☐ DEMAND \$

CHECK YES only if demanded in complaint:  
JURY DEMAND: ☒ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE "NOTICE OF RELATED CASE".

## IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2) (PLACE AND "X" IN ONE BOX ONLY)

☒ SAN FRANCISCO/OAKLAND  
☐ SAN JOSE  
☐ EUREKA

DATE

SIGNATURE OF ATTORNEY OF RECORD

9/29/2011

ORIGINAL

FILED

2011 SE. 29 A 10:23

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

E-filing

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 Facsimile : (415) 625-5657  
 cindy.ohara@eeoc.gov

7 Attorneys for Plaintiff EEOC

8 UNITED STATES DISTRICT COURT  
 9  
 10 NORTHERN DISTRICT OF CALIFORNIA

11 EQUAL EMPLOYMENT OPPORTUNITY  
 12 COMMISSION,

13 Plaintiff,

14 v.

15 MAITA CHEVROLET GEO,

16 Defendant.

Case No.

11

COMPLAINT

Civil Rights – Employment Discrimination

JURY TRIAL DEMAND

JSC

4815

17 NATURE OF THE ACTION

18 This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil  
 19 Rights Act of 1991 to correct unlawful employment practices on the basis of religion, and to  
 20 provide appropriate relief to Anthony Okon who was adversely affected by such practices. As  
 21 alleged below, Defendant unlawfully discriminated against Mr. Okon based on his religion by  
 22 refusing to make reasonable accommodation to his religious belief and practice of observing his  
 23 Sabbath from sundown Friday to sundown Saturday, and by subjecting him to different terms and  
 24 conditions of employment, harassing, disciplining and discharging him because of his religion.

25 JURISDICTION AND VENUE

26 1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337,  
 27 1343, and 1345. This action is authorized and instituted pursuant to Section 706(f)(1) and (3) of  
 28

1 Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5(f)(1) and (3) (“Title  
2 VII”), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

3 2. The unlawful employment practices alleged herein were committed in the State of  
4 California, thus venue is proper “in any judicial district in the State in which the unlawful  
5 employment practice is alleged to have been committed.” (Section 706(f)(3) of Title VII, 42  
6 U.S.C. § 2000e-5(f)(3)). Venue is therefore proper in the United States District Court for the  
7 Northern District of California.

#### 8 **INTRA-DISTRICT ASSIGNMENT**

9 3. This action is appropriate for assignment to San Francisco/Oakland as the  
10 administrative charges underlying this case were investigated in the San Francisco District Office  
11 of Plaintiff Equal Employment Opportunity Commission, and the records related to that  
12 investigation are in San Francisco.

#### 13 **PARTIES**

14 4. Plaintiff, the Equal Employment Opportunity Commission (“Commission”), is the  
15 agency of the United States of America charged with the administration, interpretation, and  
16 enforcement of Title VII, and is expressly authorized to bring this action by Section 706(f)(1) and  
17 (3) of Title VII, 42 U.S.C. § 2000e-5(f)(1) and (3).

18 5. At all relevant times, Defendant Maita Chevrolet Geo (“Defendant”), has  
19 continuously been a California corporation, qualified to do business and doing business in the  
20 State of California and has continuously had at least fifteen employees.

21 6. At all relevant times, Defendant has continuously been an employer engaged in an  
22 industry affecting commerce within the meaning of Section 701(b), (g), and (h) of Title VII, 42  
23 U.S.C. § 2000e (b), (g), and (h).

#### 24 **STATEMENT OF CLAIMS**

##### 25 **Violation of Title VII of Civil Rights Act Based on Religion**

26 7. More than thirty days prior to the institution of this lawsuit, Charging Party  
27 Anthony Okon filed a charge with the Commission alleging violations of Title VII by Defendant.  
28 All conditions precedent to the institution of this lawsuit have been fulfilled.



1           8.       Since at least April 2005, Defendant has engaged in unlawful employment  
2 practices at its Elk Grove, California facility, in violation of Section 703(a)(1) of Title VII, 42  
3 U.S.C. § 2000e-2(a)(1). These practices included but were not limited to failing to accommodate  
4 Charging Party's practice of his religion, Seventh Day Adventist, by repeatedly scheduling  
5 Charging Party to work on Friday evenings and Saturday days, the period of Seventh Day  
6 Adventist Sabbath, despite having been informed by Charging Party and his pastor that the tenets  
7 of his religion preclude secular work from sundown Friday to sundown Saturday and of Charging  
8 Party's observance of those tenets. In addition, Defendant refused to allow Charging Party to  
9 work Sundays if he had not worked Saturday; harassed Charging Party because of his religious  
10 beliefs and practice; disciplined Charging Party for taking leave to observe the Sabbath; and  
11 discharged Charging Party because of his observance of his religion.

12           9.       The effect of the practices complained of in paragraph 8 above has been to deprive  
13 Charging Party of equal employment opportunities and otherwise adversely affect his  
14 employment status because of his religion.

15           10.      The unlawful employment practices complained of in paragraph 8 above were and  
16 are intentional.

17           11.      The unlawful employment practices complained of in paragraph 8 above were  
18 done with malice or with reckless indifference to the federally protected rights of Charging Party.

19                           **PRAYER FOR RELIEF**

20           WHEREFORE, the Commission respectfully requests that this Court:

21           A.       Grant a permanent injunction enjoining Defendant, its officers, successors,  
22 assigns, and all persons in active concert or participation with it, from engaging in religious  
23 discrimination, including but not limited to failing to accommodate its employees' religious  
24 beliefs and practices, harassing, disciplining, or discharging employees due to their religion, and  
25 any other employment practice which discriminates on the basis of religion..

26           B.       Order Defendant to institute and carry out policies, practices, and programs which  
27 provide equal employment opportunities for employees regardless of their religion, which  
28 provide accommodation for employees' religious beliefs and practices, and which eradicate the

1 effects of its unlawful employment practices.

2 C. Order Defendant to make whole Charging Party by providing appropriate back  
3 pay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief  
4 necessary to eradicate the effects of its unlawful employment practices, including but not limited  
5 to reinstatement and/or front pay.

6 D. Order Defendant to make whole Charging Party by providing compensation for  
7 past and future pecuniary losses resulting from the unlawful employment practices described  
8 above, including but not limited to expenses for relocation, job search, and medical and related  
9 treatment, with interest, in amounts to be determined at trial.

10 E. Order Defendant to make whole Charging Party by providing compensation for  
11 past and future non-pecuniary losses caused by the above unlawful conduct, including but not  
12 limited to pain and suffering, emotional distress, inconvenience, mental anguish, loss of  
13 enjoyment of life, and humiliation, in amounts to be determined at trial.

14 F. Order Defendant to pay Charging Party punitive damages for its malicious and  
15 reckless conduct described above, in amounts to be determined at trial.

16 G. Grant such further relief as the Court deems necessary and proper in the public  
17 interest.

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H. Award the Commission its costs in this action.

JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by its complaint.

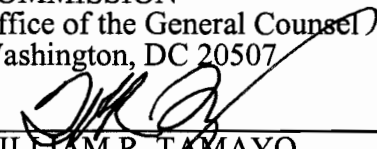
P. DAVID LOPEZ  
General Counsel

JAMES L. LEE  
Deputy General Counsel

GWENDOLYN YOUNG REAMS  
Associate General Counsel

EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION  
Office of the General Counsel  
Washington, DC 20507

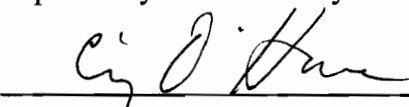
Dated: 9/28/2011

  
WILLIAM R. TAMAYO  
Regional Attorney

Dated: 9/28/2011

  
DAVID OFFEN-BROWN  
Supervisory Trial Attorney

Dated: 9/28/2011

  
CINDY O'HARA  
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